

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

David Edmundo Ramos, M.D.

**Physician's and Surgeon's
Certificate No. G 74865**

Respondent

Case No. 800-2016-019935

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 18, 2019.

IT IS SO ORDERED December 20, 2018.

MEDICAL BOARD OF CALIFORNIA

By: _____



**Kristina Lawson, Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 DAVID CARR
Deputy Attorney General
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DAVID EDMUNDO RAMOS, M.D.**

14 1172 S. Main St, Suite 339
15 Salinas, CA 93901

16 Physician's and Surgeon's
17 Certificate No. G74865,

18
19 Respondent.
20
21

Case No. 800-2016-019935

OAH No. 2018090456

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPRIMAND**

[Bus. & Prof. Code § 2227]

22 In the interest of a prompt and speedy settlement of this matter, consistent with the public
23 interest and the responsibilities of the Medical Board of California of the Department of
24 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
25 Disciplinary Order for Public Reprimand which will be submitted to the Board for approval and
26 adoption as the final disposition of the Accusation.

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1 PARTIES

2 1. Complainant Kimberly Kirchmeyer is the Executive Director of the Medical Board of
3 California (Board). She brought this action solely in her official capacity and is represented in
4 this matter by Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy
5 Attorney General.

6 2. Respondent David Edmundo Ramos, M.D., is represented in this proceeding by
7 attorney Michael J. Garvin, Sheuerman, Martini, Tabari, Zenere & Garvin, 1033 Willow Street,
8 San Jose, CA 95125.

9 JURISDICTION

10 3. On August 4, 1992, the Board issued Physician's and Surgeon's Certificate No.
11 G74865 to David Edmundo Ramos, M.D. The Physician's and Surgeon's Certificate was in full
12 force and effect at all times relevant to the charges brought in Accusation No. 800-2016-019935
13 and will expire on February 29, 2020, unless renewed.

14 4. Accusation No. 800-2016-019935 was filed before the Board and is currently pending
15 against Respondent. The Accusation and all other statutorily required documents were properly
16 served on Respondent on April 10, 2018. Respondent timely filed his Notice of Defense
17 contesting the Accusation. A copy of Accusation No. 800-2016-019935 is attached as exhibit A
18 and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 5. Respondent has carefully read, fully discussed with counsel, and understands the
21 charges and allegations in Accusation No. 800-201-019935. Respondent has also carefully read,
22 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
23 Disciplinary Order for Public Reprimand.

24 6. Respondent is fully aware of his legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
26 his own expense; the right to confront and cross-examine the witnesses against him; the right to
27 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
28 the attendance of witnesses and the production of documents; the right to reconsideration and

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 8. Respondent understands and agrees that the allegations of Accusation No. 800-2016-
7 019935, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
8 Surgeon's Certificate.

9 9. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation. Respondent hereby gives up his right to contest those
12 charges.

13 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
14 discipline and he agrees to be bound by the Disciplinary Order below.

15 RESERVATION

16 11. The admissions made by Respondent herein are only for the purposes of this
17 proceeding, or any other proceedings in which the Board or other professional licensing agency is
18 involved, and shall not be admissible in any other criminal or civil proceeding.

19 CONTINGENCY

20 12. This stipulation shall be subject to approval by the Medical Board of California.
21 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
22 Board of California may communicate directly with the Board regarding this stipulation and
23 settlement, without notice to or participation by Respondent or his counsel. By signing the
24 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
25 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
26 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
27 Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be
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1 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
2 further action by having considered this matter.

3 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including PDF
5 and facsimile signatures thereto, shall have the same force and effect as the originals.

6 14. This Stipulated Settlement and Disciplinary Order for Public Reprimand is intended
7 by the parties to be an integrated writing representing the complete, final, and exclusive
8 embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements,
9 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
10 Settlement and Disciplinary Order for Public Reprimand may not be altered, amended, modified,
11 supplemented, or otherwise changed except by a writing executed by an authorized representative
12 of each of the parties.

13 15. In consideration of the foregoing admissions and stipulations, the parties agree that
14 the Board may, without further notice or formal proceeding, issue and enter the following
15 Disciplinary Order:

16 DISCIPLINARY ORDER

17 16. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G74865,
18 issued to Respondent David Edmundo Ramos, M.D. is publicly reprimanded by the Medical
19 Board of California under Business and Professions Code section 2227, in resolution of
20 Accusation No. 800-2016-019935. The reprimand states:

21 In assessing an emergency room patient in 2016, you did not
22 document the clinical basis for your decision to forego a CT
23 scan, a departure from the standard of care.

24
25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
27 Reprimand and have fully discussed it with my attorney, Michael J. Garvin. I understand the
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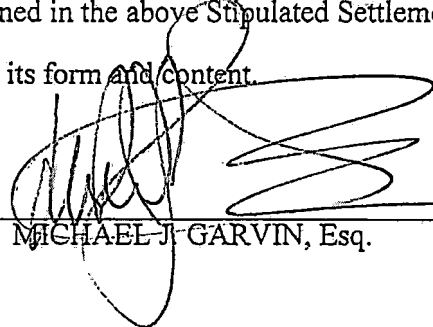
1 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
2 Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and
3 intelligently, and agree to be bound by the Decision and Order of the Medical Board of
4 California.

5 DATED: 11/5/18


6 DAVID EDMUNDO RAMOS, M.D.

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8 I have read and fully discussed with Respondent David Edmundo Ramos, M.D. the terms
9 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
10 Order for Public Reprimand. I approve its form and content.

11
12 DATED: 11/6/2018


13 MICHAEL J. GARVIN, Esq.

14
15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby
17 respectfully submitted for consideration by the Medical Board of California of the Department of
18 Consumer Affairs.

19
20 Dated: Nov. 7, 2018

Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 MARY CAIN-SIMON
24 Supervising Deputy Attorney General



25 DAVID CARR
26 Deputy Attorney General
27 Attorneys for Complainant
28

Exhibit A

Accusation No. 800-2016-019935

1 XAVIER BECERRA
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2 MARY CAIN-SIMON
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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2016-019935

11 **David Edmundo Ramos, M.D.**

A C C U S A T I O N

12 1172 S. Main St., #339
13 Salinas, CA 93901

14 Physician's and Surgeon's Certificate
15 No. G 74865,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about August 4, 1992, the Board issued Physician's and Surgeon's Certificate
24 Number G 74865 to David Edmundo Ramos, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the allegations brought herein and
26 will expire on February 29, 2020, unless renewed.

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2 **JURISDICTION**

3 3. This Accusation is brought before the Board, under the authority of the following
4 laws. All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2004 of the Code states:

6 "The board shall have the responsibility for the following:

7 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
8 Act.

9 "(b) The administration and hearing of disciplinary actions.

10 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
11 administrative law judge.

12 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
13 disciplinary actions.

14 "(e) Reviewing the quality of medical practice carried out by physician and surgeon
15 certificate holders under the jurisdiction of the board.

16 "(f) Approving undergraduate and graduate medical education programs.

17 "(g) Approving clinical clerkship and special programs and hospitals for the programs in
18 subdivision (f).

19 "(h) Issuing licenses and certificates under the board's jurisdiction.

20 "(i) Administering the board's continuing medical education program."

21 5. Section 2001.1 of the Code provides that the Board's highest priority shall be public
22 protection.

23 6. Section 2227 of the Code provides that a licensee who is found guilty under the
24 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
25 one year, placed on probation and required to pay the costs of probation monitoring, or such other
26 action taken in relation to discipline as the Board deems proper.

27 7. Section 2234 of the Code, states:
28

1 “The board shall take action against any licensee who is charged with unprofessional
2 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
3 limited to, the following:

4 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
5 violation of, or conspiring to violate any provision of this chapter.

6 “(b) Gross negligence.

7 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
8 omissions. An initial negligent act or omission followed by a separate and distinct departure from
9 the applicable standard of care shall constitute repeated negligent acts.

10 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
11 for that negligent diagnosis of the patient shall constitute a single negligent act.

12 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
13 constitutes the negligent act described in paragraph (1), including, but not limited to, a
14 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
15 applicable standard of care, each departure constitutes a separate and distinct breach of the
16 standard of care.

17 “(d) Incompetence.

18 “(e) The commission of any act involving dishonesty or corruption which is substantially
19 related to the qualifications, functions, or duties of a physician and surgeon.

20 “(f) Any action or conduct which would have warranted the denial of a certificate.

21 “(g) The practice of medicine from this state into another state or country without meeting
22 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
23 apply to this subdivision. This subdivision shall become operative upon the implementation of the
24 proposed registration program described in Section 2052.5.

25 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
26 participate in an interview by the board. This subdivision shall only apply to a certificate holder
27 who is the subject of an investigation by the board.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Negligence/Gross Negligence)**

3 8. Respondent is subject to disciplinary action under section 2234(b) or 2234(c) in that
4 his care and treatment of Patient One¹ included departures from the standard of care constituting
5 gross negligence or repeated negligent acts. The circumstances are as follows:

6 9. Patient One went to the emergency department at Salinas Valley Memorial Hospital
7 on November 5, 2015, complaining of abdominal pain. He was admitted to hospital care after
8 clinical work-up revealed acute sigmoid diverticulitis with perforation. After a course of
9 antibiotic therapy during his 5-day stay in hospital, Patient One was released with a prescription
10 for oral antibiotics.

11 10. On December 6, 2015, Patient One returned to Salinas Valley Memorial Hospital,
12 again for abdominal pain. Repeat diagnostic imaging revealed increased severity of the sigmoid
13 diverticulitis. Patient One was again hospitalized and treated with antibiotics and bowel rest by
14 total parenteral nutrition. His primary care physician at Salinas Valley Memorial Hospital
15 documented a plan to avoid subjecting Patient One to surgery while suffering from an active
16 infection which could seriously complicate the surgery: Patient One would receive a six-week
17 course of continuous oral antibiotics and, if good progress against the infection resulted, would
18 then undergo an elective laparoscopic sigmoid colectomy.

19 11. On Saturday, January 2, 2016, Patient One returned to the Salinas Valley Memorial
20 Hospital about 8 p.m. with severe abdominal pain. He was seen by Respondent, the attending
21 emergency department physician. The medical record indicates that Patient One was afebrile,
22 with a heart rate of 105. When questioned, he stated that his pain had begun approximately 5
23 hours prior and that the pain was a "10" on a 1-10 intensity scale. Respondent's physical
24 examination revealed diffuse abdominal tenderness, guarding, and distension. Respondent
25 ordered IV fluids, medication for pain and nausea, abdominal x-rays, and blood tests for Patient
26 One.

27 _____
28 ¹ To preserve patient confidentiality, the subject patient is referred to herein as Patient
One. The patient's full name will be produced to Respondent upon request.

12. Respondent reviewed Patient One's medical records and learned that Patient One had been hospitalized for diverticulosis twice in the preceding two months and was on oral antibiotic therapy. Respondent's interpretation of the ordered plain film x-ray study was that it revealed non-specific bowel gas patterns, with no apparent obstruction. Respondent did not order an abdominal CT scan of Patient One.

13. Respondent ordered a second dose of IV pain medication for Patient One. Over the four hours he remained in the emergency department Patient One's description of his pain was documented as diminishing. Respondent discharged Patient One about midnight, with prescriptions to address his pain and nausea. Respondent instructed Patient One to return if his symptoms worsened and advised Patient One to see his gastroenterologist on the next business day, two days hence.

14. About 18 hours later, Patient One sought medical care at the emergency department at Community Hospital of the Monterey Peninsula. Examination there included a CT scan, which revealed free air in his abdomen and severe localized diverticulitis. Patient One was admitted to the hospital and given antibiotics and total parenteral nutrition. Patient One was kept in hospital until his condition improved sufficiently for the attending surgeon to perform a sigmoid colectomy. Patient One had an uneventful recovery and was soon discharged from the hospital.

15. Respondent's license is subject to disciplinary action for unprofessional conduct in that his failure to conduct a clinically appropriate work-up of Patient One was a departure from the standard of care constituting gross negligence in violation of section 2234(b). Respondent's license is furthermore subject to disciplinary action, in that the multiple departures alleged herein constitute repeated negligent acts in violation of section 2234(c).

SECOND CAUSE FOR DISCIPLINE

(Negligence/Gross Negligence)

16. The allegations of paragraphs 9-14 are incorporated herein by reference as if set out in full. Respondent is subject to disciplinary action for unprofessional conduct, in that Respondent failed to adequately review and consider Patient One's recent medical history in his

1 work-up of the patient's condition, and that failure constitutes a departure from the standard of
2 care. Respondent's failure to clinically justify the decision not to order a CT scan and IV
3 antibiotics for Patient One furthermore constitutes a departure from the standard of care. These
4 departures each constitutes gross negligence in violation of section 2234(b) or, taken in
5 conjunction with the other allegations herein, constitute repeated negligent acts in violation of
6 section 2234(c).

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Medical Board of California issue a decision:

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 74865,
11 issued to David Edmundo Ramos, M.D.;
- 12 2. Revoking, suspending or denying approval of David Edmundo Ramos, M.D.'s
13 authority to supervise physician assistants and advanced practice nurses;
- 14 3. Ordering David Edmundo Ramos, M.D., if placed on probation, to pay the Board the
15 costs of probation monitoring; and
- 16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: April 10, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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